

1 BARRY J. PORTMAN  
Federal Public Defender  
2 NED SMOCK  
Assistant Federal Public Defender  
3 555 - 12th Street, Suite 650  
Oakland, CA 94607-3627  
4 Telephone: (510) 637-3500  
5 Counsel for Defendant SBONA

6  
7  
8 IN THE UNITED STATES DISTRICT COURT  
9 FOR THE NORTHERN DISTRICT OF CALIFORNIA

10 UNITED STATES OF AMERICA,	)	No. CR-09-00549 CW
	)	
11 Plaintiff,	)	<b>STIPULATION AND <del>PROPOSED</del></b>
	)	<b>ORDER CONTINUING STATUS</b>
12 v.	)	<b>HEARING AND SETTING BEFORE</b>
	)	<b>MAGISTRATE JUDGE</b>
13 SEBASTIAN SBONA,	)	
	)	Hearing Date: January 13, 2010
14 Defendant.	)	Requested Date: January 27, 2010 before
	)	Magistrate Judge Beeler

16 The above-captioned matter is set on January 13, 2010 before Magistrate Judge  
17 Beeler for a status hearing. The parties jointly request that this Court continue the matter to  
18 January 27, 2010 at 10:00 a.m. and that the Court exclude time under the Speedy Trial Act,  
19 18 U.S.C. §§ 3161(h)(4) and (7)(B)(iv), between the date of this stipulation and January 27,  
20 2010.

21 Defense counsel will be engaged in trial before Judge Wilken on January 13, 2010.  
22 In addition, Mr. Sbona suffered from cardiac arrest in early July and had a pacemaker  
23 inserted. He has had complications, including ongoing escalation of arrhythmia, which  
24 medical professionals are trying to correct. In his current medical state, it has not yet been  
25 possible to have substantive meetings to discuss the case. The failure to grant such a  
26 continuance would unreasonably deny counsel for the defendant the reasonable time

1 necessary for effective preparation, taking into account the exercise of due diligence.

2 Because Judge Wilken will be unavailable in February, the parties ask that the matter be  
3 calendared again before Your Honor.

4 The parties further stipulate and agree that the time from January 13, 2010 to  
5 January 27, 2010, should be excluded in accordance with the provisions of the Speedy Trial  
6 Act, 18 U.S.C. §§ 3161(h)(4) and (7)(B)(iv).

7  
8 January 8, 2010

\_\_\_\_\_/s/\_\_\_\_\_  
NED SMOCK  
Assistant Federal Public Defender

9  
10  
11 January 8, 2010

\_\_\_\_\_/s/\_\_\_\_\_  
KESLIE STEWART  
Assistant United States Attorney

**ORDER**

Based on the reasons provided in the stipulation of the parties above, the Court hereby finds that the ends of justice served by the continuance requested herein outweigh the best interest of the public and the defendant in a speedy trial because the failure to grant the continuance would deny the counsel for the defendant the reasonable time necessary for effective preparation, taking into account the exercise of due diligence. The Court makes this finding because of the defendant's health problems and to allow effective defense preparation of the case.

Based on these findings, IT IS HEREBY ORDERED THAT the STATUS hearing date of January 13, 2010 is continued to January 27, 2010 at 10:00 a.m. and that time be excluded from January 13, 2010 to January 27, 2010 pursuant to 18 U.S.C. §§ 3161(h)(4) and (7)(B)(iv).

IT IS SO ORDERED.

January 12, 2010  
\_\_\_\_\_  
Date

/s/ Laurel Beeler  
\_\_\_\_\_  
HON. LAUREL BEELER  
United States Magistrate Judge